

Congress of the United States
Washington, DC 20515

December 3, 2015

Honorable Sylvia Mathews Burwell
Secretary, Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244-1850

Dear Secretary Burwell,

Please accept our comments regarding Arizona's proposed Medicaid changes. We urge a full and healthy dialogue regarding these concerns before any final decision is made that could negatively impact our constituents and the state of Arizona.

The State, through Arizona Health Care Cost Containment System (AHCCCS), submitted a renewal for their 1115 Medicaid waiver that if implemented will drastically change the Arizona Medicaid system. The application includes changes that could harm some of the most economically disadvantaged individuals in the state. We ask that you carefully review and reject *any* provisions that limit access, reduce coverage, penalize low-income Arizonans, act as a barrier to care, or cause individuals to lose their coverage.

The State estimates that up to 571,000 individuals could be enrolled in their newly created "AHCCCS CARE" program. This means that up to 571,000 individuals would be subjected to new requirements that could act as a barrier to care, or cause them to lose their insurance altogether. Arizona has already experienced first-hand the impacts of harmful Medicaid cuts, which resulted in massive loss of coverage, a spike in uncompensated costs to hospitals, economic consequences that reverberated throughout the state economy and job loss in the health sector and beyond.

The Arizona proposal submitted October 2015, titled "Arizona's Application for a New Section 1115 Demonstration" for the period October 1, 2016 through September 30, 2021 should largely be rejected. We encourage HHS to consider the state's own experience and to reject the proposals described below on the basis that they violate the intent and objectives of the Medicaid program and that they will do harm to the most vulnerable Arizonans. Below are particular items of concern under the new proposal:

Cost sharing, premiums and copayments

The State is seeking waiver authority to charge additional premiums and co-payments, including for emergency services and missed appointments. Under the State's harsh plan beneficiaries with incomes between 100 and 138% FPL would be dis-enrolled and locked out of the program for six months if they failed to pay their premiums or copayments.

Implementation of co-payments has been extensively studied and it has been consistently established that imposing co-payments on poorer populations leads to delays in seeking primary and preventive health care, worsened health outcomes and increased emergency room visits. This additional cost burden will undoubtedly be shifted onto hospitals and those that have private insurance.

CMS has previously acknowledged that cost sharing for emergency services is inappropriate because coding is insufficient to determine non-emergency services and that doing so will not adequately protect beneficiaries. Missed appointment fees have practical limitations and burdens on implementation and have proven difficult to impose. And while savings are not a factor for waiver approval, a 2006 AHCCCS analysis examined implementation of premiums and copays for low income Arizonans and found that it would cost the state nearly \$16 million in administrative costs to collect payments, while receiving less than \$6 million in return¹.

42 U.S. Code §1396o requires that any deduction, cost sharing, or similar charge imposed under any waiver authority of the Secretary must, among other criteria, “provide benefits to recipients of medical assistance, which can reasonably be expected to be equivalent to the risks to the recipients” and “is voluntary, or makes provision for assumption of liability for preventable damage to the health of recipients of medical assistance resulting from involuntary participation.” Because the emergency room cost sharing proposals are being studied in Indiana, there is no demonstration value for Arizona. *The state proposal does not meet the federal requirements or establish any demonstration value, we urge you to immediately reject these requests.*

The AHCCCS CARE Accounts

The state is requesting authority to establish health accounts for Medicaid beneficiaries. Severe penalties will be implemented, including disenrollment if beneficiaries fail to make payment to the accounts. People employed by small businesses and the self-employed would be at a disadvantage due to the structure of the proposal. Additionally, the mechanisms to operate these accounts are unclear, but there would likely be significant administrative burdens and operating costs, including the apparent contracting with a third party vendor. *The state proposal will harm low income individuals and cause loss of coverage, we urge you to immediately reject this request.*

Work Requirements

The State is seeking waiver authority to implement mandatory work requirements for ‘able bodied’ adults. This requirement would implement significant administrative burdens in determining monthly income and work requirement verifications. With stagnating wages, it would pose serious burdens to families without access to safe child care and jobs with a living wage. This is a clear violation of numerous provisions within the Medicaid Act and similar state requests were recently rejected. *The state proposal does not meet the federal requirements or establish any demonstration value, we urge you to immediately reject these requests.*

Five year lifetime limit on enrollment

The State is seeking waiver authority to impose a lifetime limit of 5 years of benefits on all “able-bodied” adults. This request appears to target those with limited disabilities or with chronic conditions. Time limits have never been allowed in the history of the program. This is a clear violation of numerous provisions within the Medicaid Act. *The state proposal does not meet the federal requirements or establish any demonstration value, we urge you to immediately reject these requests.*

¹ http://www.azahcccs.gov/reporting/Downloads/CostSharing/FINAL_Cost_Sharing_Report.pdf

Delivery System Reform Incentive Payment (DSRIP)

The State is seeking a waiver to provide for delivery system reforms. DSRIP could be used to implement sweeping delivery and payment reforms, and as such must be properly implemented. It is vital to have diverse stakeholders involved and in leadership positions. There must be an inclusive and transparent process to ensure proper input from the health community and beneficiaries across Arizona, not just a single sector.

Eliminate Non-Emergency Medical Transportation (NEMT)

The State is seeking waiver authority to eliminate non-emergency medical transportation (NEMT) to some beneficiaries. This request will only be an added burden on the most vulnerable populations, namely the mentally ill and those suffering from debilitating diseases, rural and tribal populations. Eliminating this service will deny primary and preventative care to those in need and force them to seek more expensive emergency services. Additionally, the State has failed to release an evaluation of previously approved NEMT copayments. *We urge you to reject this request and instead to work with the State to evaluate the already imposed co-payments.*

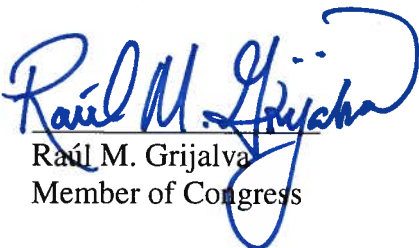
In addition to the concerns raised above, we are deeply troubled by the lack of tribal consultation during this process. With more than 150,000 American Indians / Alaska Natives (nearly half of the AI/AN population in Arizona) enrolled in our Medicaid program, it is unacceptable that they were not sufficiently consulted leading up the application.

The state willingly admits that these proposals will not save money. Extensive evidence shows that many of the proposals will create barriers to health care. Unfortunately, the intent of these proposed changes are clear: to reduce Arizona's Medicaid population and to penalize those that have coverage through the program.

Federal law allows a waiver only to facilitate experimental, pilot or demonstration projects that are found to promote the objectives of Medicaid. This proposal should be rejected on the basis that it contradicts the objectives of the Medicaid Act and Section 1115 of the Social Security Act and will harm low income individuals.

The decisions before CMS have the potential to impact hundreds of thousands of individuals' health care, raise cost for everyone who continues to be insured, reduce our workforce, and damage our overall state economy. This proposal places undue hardships on those in the state that are least able to comply and would grant Arizona the most onerous program in the entire country. This application has no place in our state and in our nation that is working so hard to provide basic health care to individuals and families.

Sincerely,



Raúl M. Grijalva
Member of Congress



Ann Kirkpatrick
Member of Congress



Ruben Gallego
Member of Congress